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28 FEB 2007

In re Application of	:	
Weinstein et al.	:	
Application No.: 10/566,586	:	DECISION
PCT No.: PCT/US04/02064	:	
Int. Filing Date: 28 January 2004	:	ON
Priority Date: 31 July 2003	:	
Attorney Docket No.: GMU-0001	:	PETITION
For: Compositions And Methods For	:	
Treating Or Preventing HIV Infection	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 19 December 2006 and the supplemental correspondence filed on 26 December 2006.

### **BACKGROUND**

This international application was filed on 28 January 2004, claimed an earliest priority date of 31 July 2003, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 31 January 2006. Applicants filed *inter alia* the basic national fee on 31 January 2006.

On 24 July 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a \$65.00 surcharge under 37 CFR 1.492(h).

### **DISCUSSION**

Applicants filed a petition under 37 CFR 1.47(a) on 19 December 2006, seeking to excuse the absence of the signature of joint inventor Dr. Kenneth Alibek. However, on 26 December 2006, applicants filed an "Amendment..." to the petition, indicating that "after the Petition was filed, Dr. Alibek decided to sign his supplemental declaration." Also filed on 26 December 2006 was a declaration document nominating and signed by Dr. Alibek. In view of the 26 December 2006 submission, the petition under 37 CFR 1.47(a) filed on 19 December 2006 is **DISMISSED AS MOOT**.

Inspection of the declaration filed on 26 December 2006 reveals that it consists of a single sheet, identified as "Page 2 of 2." This sheet neither identifies the patent application to which it is directed nor includes the statements required by 37 CFR 1.63. Moreover, it nominates only Dr. Alibek, and not the other inventors named in the published international application (Raymond Weinstein and Michael Weinstein). Moreover, the name appearing on the declaration, "Kenneth Alibek," differs from that appearing in the published international application ("ALIBEK, Ken"). To the extent that this discrepancy represents more than a typographical error or phonetic misspelling, a proper petition (and fee) would be required to accept the name as "Kenneth" rather

than "Ken." See MPEP 605.04(b). As such, the declaration does not comply with the requirements of 37 CFR 1.497(a) and (b).

**DECISION**

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**, without prejudice.

A proper response (including an oath or declaration compliant with 37 CFR 1.497(a) and (b)) must be filed within **ONE (1) MONTH** from the mail date of this decision. Extensions of time may **NOT** be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.



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